



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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26 October 2009

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First St., NE, Room 1A
Washington, DC 20426

SUBJECT: Final Environmental Impact Statement (FEIS) for Florida Gas Transmission's (FGT) Phase VIII Pipeline Expansion Project; OEP/DG2E/Gas 1 FGT Company
Docket No. CP09-17-000; CEQ No. 20090328; ERP No. FRC-E03019-00

Dear Secretary Bose:

To fulfill EPA's Clean Air Act (CAA) § 309 and National Environmental Policy Act (NEPA) § 102(2)(C) responsibilities, EPA is enclosing its comments regarding the above FEIS for the proposed action: FGT's Phase VIII Pipeline Expansion Project (Proposed Action). Under § 309, EPA is directed to review and comment publicly on the environmental impacts of Federal activities, including actions for which environmental impact statements are prepared.

EPA supports the Project's objective to minimize the length of new pipeline to be constructed and maximize its co-location adjacent to existing linear infrastructure using the existing access roads through wetland areas in lieu of constructing new ones.

Background

Description: the proposed action will involve construction and operation of about 482.8 miles of multi-diameter pipeline and associated pipeline support facilities and the acquisition of 22.7 miles of lateral pipeline. Approximately 357.3 miles of pipeline will consist of looping existing facilities, about 25.9 miles of looping segment would involve the removal and replacement of previously abandoned 24-inch diameter pipeline, and the remaining 125.5 miles will consist of new or "Greenfield" construction in three segments. Approximately 59.0 miles will lie in Alabama and 424.2 miles in Florida. Included is the addition of compression and acreage at eight existing compressor stations plus the construction of one new compressor station, three new metering and pressure regulating (M&R) stations and one new regulator station, and upgrades to two existing M&R stations plus construction of auxiliary and appurtenant facilities. The new pipeline facilities are proposed to be designed and operated at the maximum allowable operating pressure (MAOP) of 1,333 pounds per square inch gauge.

Purpose & Need: to meet the expanding demand for natural gas to meet the State of Florida's electric generation needs while minimizing the length of new pipeline to be constructed and maximizing its co-location adjacent to existing linear infrastructure. The Proposed Action would increase FGT's certificated capacity by about 820 million cubic feet per day (MMcf/d)

and provide: a connection between the FGT's East Leg (mainline) and its West Leg pipelines, an additional natural gas pipeline service to Florida Power & Light Company's (FPL) Martin County Power Plant (PP) and Turkey Point PP (Miami-Dade County), and a new natural gas service to both FPL Manatee and Suwannee County PPs.

FGT proposes to begin construction in January of 2010 and has contractual commitments to complete construction of the Greenfield 2 segment and the associated M&R station by July 1, 2010 and the remainder of the Project by April 2011.

EPA Remaining Concerns

EPA appreciates FERC's responsiveness¹ in addressing EPA's expressed concerns in its DEIS letter dated: June 8, 2009. However, some of the responses to our comments require additional explanation and EPA requests the following be elaborated upon further in the Record of Decision (ROD).

- **Jurisdictional wetlands:** The FEIS states that the Florida Department of Environmental Protection (FDEP) has jurisdiction over agricultural ditches and that no mitigation is required. EPA recommends jurisdictional wetlands be verified with the U.S. Army Corps of Engineers (COE) consistent with current *Rapanos* guidance as the federal government may have jurisdiction over agricultural ditches, and therefore mitigation may be required.
- **Reasonable alternatives - Florida EnergySecure Line:** EPA appreciates the addition of this proposed pipeline to the Section 3.2 Systems Alternatives section. The discussion included the provision of natural gas to two FPL Next Generation Clean Energy Centers at Cape Canaveral and Rivera Beach but did not discuss the provision of natural gas to FPL's Martin County Power Plant, which EPA understands is an objective of the pipeline. Consequently, it appears to EPA that two natural gas pipelines are providing gas to the Martin County Plant without a clear explanation for the need. This should be briefly addressed in the ROD.
- **Environmental impacts – noise:** Overall, EPA is pleased that FERC is employing the 55 DNL metric as their threshold level for project noise increases and proposing some noise mitigation for project construction and operation. Some remaining project elevations (e.g., Station 13: NAS #1) should be further mitigated to approximate the 55 DNL target. For cases where elevated ambient noise levels already exist due to operating FGT compressor stations, we suggest that such noise levels also be reduced. For Station 15, the elevated existing levels are largely due to old existing compressor units that have been grandfathered. While Phase VIII project upgrades should not further elevate noise levels at the station, existing noise levels of two of the three affected Noise Sensitive Areas (NSAs) are well above (+4.7 to +11.2 DNL) the 55 DNL target, which is particularly noteworthy since noise data are expressed in the DNL metric. If an efficiency upgrade of the old compressor units is not yet justified, existing levels at Station 15 could be attenuated through simple compressor shielding and station insulation and/or earthen berm mitigation of the station site as a whole. Although not current FERC policy, we request consideration

¹ P. 6-32

of such mitigation to lower the existing values of 59.7-66.2 DNL at two NSAs near Station 15 to a level approaching the 55 DNL target. See enclosed Detailed Comments.

- **Environmental impacts – hydrostatic testing:** The FEIS response² appears to be deferring the environmental impacts analysis associated with hydrostatic testing to the permitting process, which is inconsistent with NEPA's purpose to identify the direct, indirect, and cumulative effects of the proposed action.

EPA requests the ROD address our DEIS comment regarding the absence of: 1) total flow or volume information for any of the water bodies listed as source water for hydrostatic-testing, 2) a discussion of the water-withdrawal impacts to these water bodies in terms of their flow, volume, ecology, and downstream impacts, including potential aquatic-species impacts such as increased water temperatures, reduced dissolved oxygen levels, and entrainment at the water intakes, and 4) cumulative impacts to source-water associated with seasonal considerations and extended drought situations.

- **Environmental impacts – hydrostatic testing plan:** The FEIS response indicates that FGT's procedures addressed EPA's DEIS' comments. However, EPA finds the FEIS did not address our request for the testing plan to insure pump intakes minimize disturbance to the stream bed, e.g., the intake hose and screen should be kept off the water-body bottom, the pumps and hoses used to withdraw water from the water body be located to avoid bed erosion and minimize vegetation disturbance, and the intake location should be monitored to insure no erosion, flooding, or other detrimental impacts. Nor did the FEIS address the request for construction and other refueling equipment be conducted and located at a minimum distance of 100 feet from any water body and wetlands. EPA requests the ROD address these elements since the FGT procedures as specified in Appendix E-2, VII,³ do not.
- **Environmental impacts – pipe line placement in wetlands:** In the Apalachicola National Forest, the proposed pipeline would be placed 15 feet from the nearest FGT pipeline rather than the normal 25-foot separation. As stated in our comments on the DEIS, EPA would like the applicant to use this construction technique in other sensitive wetland areas in order to reduce wetland impacts. It is encouraging to note⁴ that coordination with other public land agencies has occurred to determine if additional avoidance and minimization measures may be necessary in other environmentally sensitive areas.
- **Environmental impacts – disposal of plant debris within wetlands:** The FEIS text states FGT may cut timber within the right-of-way and dispose of it by chipping slash and brush and leaving the chips on the right-of-way. However in the FERC staff's response to EPA's DEIS comments⁵, indicates cut vegetation will be removed. EPA requests the ROD clarify this discrepancy and removes this method from consideration in wetland areas as it may inhibit the re-growth of wetland vegetation.

² P. 6-34, comment FA2-39 referring to FA2-10

³ P. ES-18

⁴ P. 6-35.

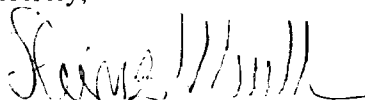
⁵ P. 6-37, comment FA2-14.

- **Environmental impacts – essential fish habitat:** The DEIS stated that the use of the horizontal directional drilling (HDD) method to minimize wetland impacts in Loop 11 would actually increase impacts to mangrove habitat. EPA requested that the FEIS provide detailed information which clearly outlines the use of an HDD in this area that would increase mangrove impacts. EPA notes the FEIS states revised HDD techniques will reduce impacts to EFH.⁶ Please submit this requested information to EPA's South Florida Office, Attention: Mr. Ron Miedema, U.S. Environmental Protection Agency, 400 North Congress Avenue, Suite 120, West Palm Beach, Florida, 33401.
- **Environmental impacts – environmental justice:** EPA's DEIS issues related to environmental justice remain unaddressed in the FEIS and EPA requests the ROD appropriately address them.

We appreciate FERC's response to EPA's DEIS comments. EPA requests FERC to further address the issues identified above and those enclosed in our detailed comments concerning noise mitigation, hydrostatic-testing impacts to designated water use, and wetlands impacts and mitigation concerns including essential fish habitat, cumulative effects, and environmental justice.

Thank you for the opportunity to review this FEIS and our detailed comments are enclosed. When the ROD is published, please send one hard copy to us at the above address and one to Mr. Miedema at the address identified above. If you wish to discuss this matter further, please contact Beth Walls (404-562-8309 or walls.beth@epa.gov) of my staff.

Sincerely,



Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

Enclosure: EPA's Detailed Comments

⁶ P. 3-37.

EPA's DETAILED COMMENTS ON PHASE VIII FEIS

(10/26/09)

NOISE COMMENTS

FERC Response FA2-5 (also 2-24, 2-26 & 2-30): Overall, EPA appreciates that FERC is employing the 55 DNL threshold for project-related noise. Nevertheless, existing ambient noise levels can also be important. We note that noise from Compressor Station 15 is burdened with noisy, grandfathered compressor units 1501 and 1506 resulting in existing noise levels well above the 55 DNL target.

Because units 1501 and 1506 are considered grandfathered, we are pleased to note from SA2-5 that the FERC staff has recommended that noise from the entire Station 15 should not result in greater noise levels than the current levels at the affected Noise Sensitive Areas (NSAs) near the station (notably those NSAs that are already above 55 DNL). However, based on Table 4.11.2-17, predicted project noise from the proposed new compressors are comparatively low (35.5-37.7 DNL) such that the resultant cumulative noise (combined old and new compressor units at Station 15) would not be expected to be louder than the existing noise levels (56.7-66.2 DNL) since the new compressors are much quieter than existing levels. Similarly, lowering the noise levels of the new compressors at the source would likely not affect the total noise levels emitted from Station 15. Therefore, cumulatively, there should be no resultant noise increase at this station due to the project. The old compressor units or the station site as a whole would need to be mitigated in order to attenuate the existing noise levels at the affected NSAs.

Even though Station 15 may be grandfathered, we wish to note that existing ambient noise levels at this station are nevertheless elevated well above the 55 DNL target level. EPA suggests that this be considered from a noise impact and cumulative impact perspective – especially since existing noise levels are primarily due to the continuous operation of existing compressor units rather than any natural or non-pipeline features.¹ In considering the reduction of the elevated existing noise levels, the age of the compressor units may be important. How old are units 1501 and 1506 and how often does FERC recommend that applicants replace such units from an energy and performance efficiency perspective? Moreover, how significant are the proposed Phase VIII modifications at the station, i.e., what level of modification is typically allowed before a compressor station can no longer be considered grandfathered? Absent a need to replace the old units, mitigation in the form of shielding/insulation around the old compressors or the addition of earthen berms between the site and the three affected NSAs could reduce the elevated current noise levels from the station. Such mitigation would seem to be a simple and cost-effective way to attenuate noise. For example, excess soil potentially available from pipeline placement could prospectively be used for an earthen berm construction.

¹ We understand (Response FA 2-24) that it is currently FERC's policy to only mitigate for project-related noise levels.

Given that the averaged DNL metric was used, it should be also noted that incremental elevations for DNL values are more significant than for instantaneous noise measurements in decibels (dBA). While we agree with the FERC staff's Response FA 2-26 indicating that an increase in 3 dBA is perceptible to most humans and that an increase of 10 dBA is considered a doubling of noise (loudness), such levels are instantaneous measurements in dBA as opposed to the averaged DNL metric where smaller increases can be significant. In this light, even though the project modification would not cause increases over the 55 DNL for Station 15, the existing noise levels of two of the three NASs near Station 15 (NAS #6: 59.7 DNL and #7: 66.2 DNL) deviate substantively (+4.7 DNL and +11.2 DNL, respectively) from the 55 DNL target. We also note that proposed modifications for other compressor stations (e.g., Station 13: NAS #1) may result in a substantive noise level due to the project (+5.3 DNL: Table 4.11.2-15) in a 55 DNL environment.

FERC Response FA2-8: We appreciate the addition of the typical timeframe for the horizontal directional drilling HDD work. However, the information is general. A range timeframe for an example drill (100-ft stream and wetland crossing in local geology without complications) would have provided some perspective (e.g., x-y days). Moreover, our initial comment was intended for an overall project timeframe for constructing the Phase VIII project (years and/or months) and possibly a typical construction timeframe for average pipeline placement procedures near any given NAS (e.g., 500-ft section), such that residents could anticipate the potential duration of construction impacts near their home.

FERC Response FA2-34: The addition of the noise levels of basic construction equipment would have improved the noise section and can be easily found in the literature. The public could also likely better relate to such noise levels, especially if further compared to other common noise sources with which they are familiar such as household appliances, lawnmowers or airplane takeoffs.

FERC Response FA2-35: It remains unclear from this response and the referenced FA2-5 if construction noise from pipeline placement or compressor stations would be mitigated with portable shielding (e.g., around stationary pumps) and other practical measures during construction. However, we note and appreciate staff recommendations to attenuate HDD noise near NSAs.

CLEAN WATER ACT 404 COMMENTS

2.2.1 Pipeline Rights-of-Way (pg. 2-9): The FEIS states a 75-foot wide right-of-way (ROW) will be allowed in saturated wetlands and a 100-foot wide right-of-way in unsaturated wetlands when installing a 42-inch pipeline. The FEIS remains unclear why the 42-inch pipeline can be installed within a 75-foot wide ROW in some areas but not in others. EPA still believes further avoidance and minimization of wetland impacts can occur by requiring all installation be conducted within a 75-foot right-of way, which is

consistent with the CWA's requirement for the least-damaging alternative be considered and selected unless proven impracticable.²

2.2.1 Pipeline Rights-of-Way (pg. 2-13): In the Apalachicola National Forest, the FGT would be placed 15 feet from the nearest FGT pipeline rather than the normal 25-foot separation. EPA would also like the applicant to use this construction technique in other sensitive wetland areas in order to reduce wetland impacts. It is encouraging to note³ that coordination with other public land agencies has occurred to determine if additional avoidance and minimization measures may be necessary in other environmentally sensitive areas.

3.0 Alternatives (pp. 3-1 to 3-6): The FEIS should have included a thorough review of the FPL proposed Turkey Point Power Plant expansion within the cumulative impacts section; moreover this project was a reasonable alternative and should have been included in the alternatives analysis as project was reasonably foreseeable.

3.3.2.1 Greenfield 1 (pp. 3-16 to 3-20): The FEIS still does not provide any detail on the proposed route and how it was selected over the four alternatives reviewed. Therefore, EPA is not able to determine if the proposed route will have the least amount of impact on the environment consistent with the CWA 404(b)(1) Guidelines. According to Table 3.3.2-1, the selected route proposes the most amount of wetland impacts over the four other alternatives reviewed. EPA believes the FEIS should have further reviewed Alternative A in more detail. Alternative A proposes no wetland impacts and would avoid an HDD crossing of the Suwannee River, which is critical habitat of the Gulf Sturgeon. The FEIS did not include the weighting analysis explaining how wetlands impacts were valued or weighted compared with the factors influencing selection, e.g., impacts to landowners, agriculture lands, and length of pipeline.

3.3.2.3 Greenfield 3 (pp. 3-20 to 3-23): the FEIS should have included a review of the Florida EnergySecure Line alternative, in the cumulative impacts section, for providing natural gas to the Martin County Power Plant.

3.4.1.6 Essential Fish Habitat Route Variation (pp. 3-32 – 3-38): The DEIS stated that the use of the HDD method to minimize wetland impacts in Loop 11 would actually increase impacts to mangrove habitat. EPA requested that the FEIS provide detailed information which clearly outlines the use of an HDD in this area that would increase mangrove impacts. According to the FEIS, it is encouraging to note⁴ that revised HDD techniques will reduce impacts to EFH.

4.2.3 FGT's Plan (pg. 4-13): The FEIS states that revegetated areas would be monitored for at least two years following construction to ensure successful restoration. Areas that are considered temporary impacts should be monitored until it has been determined that they have reached pre-project function. Two years is more than likely not sufficient to

² 40 CFR § 230.10(a)(2)

³ P. 6-35

⁴ P. 3-37

determine success. The post-project function should be maintained for a pre-defined period of time (e.g., one growing season) to ensure that it is successful. Standard mitigation practice⁵ for monitoring is for 5 years regardless of when “success” is achieved.

4.3.2.3 Waterbody Crossings (pg. 4-27): The FEIS states that FDEP has jurisdiction over agricultural ditches and that no mitigation is required. Please complete a verified jurisdictional determination based on the currently applicable *Rapanos* guidance. The federal government may have jurisdiction over agricultural ditches and mitigation may be required.

4.4.3 Site Specific Wetland Impacts (pg. 4-49): The FEIS states that the proposed project would result in temporary wetland impacts totaling 839 acres. EPA believes that impacts to forested wetlands should be considered permanent impacts and should be addressed accordingly. We also believe that any wetlands that are converted from one type of wetland to any other type should be considered a permanent impact. The FEIS and the FERC’s response to EPA’s DEIS comment is not consistent in its use of the terminology “permanent” and “temporary.”

4.5.2 General Impacts and Mitigation (pg. 4-56): The document states that FGT may cut timber within the right-of-way and dispose of it by chipping slash and brush and leaving the chips on the right-of-way. However, according to the FERC staff’s response to EPA comments on the DEIS,⁶ the response states that cut vegetation will be removed. Please clarify this discrepancy. EPA requests that this method be removed from consideration in wetland areas as it may inhibit the re-growth of wetland vegetation.

Appendix E-2, Post-Construction Maintenance (3) (pg. 17): The appendix states that monitoring of wetlands will occur for the first three years after construction or until wetland revegetation is successful. EPA requests that a five-year monitoring period, as outlined in the Federal Mitigation Rule, be incorporated into this project. Temporal loss of function for areas that are impacted should also be accounted for. Standard mitigation practice for monitoring is for 5 years regardless of when “success” is achieved.⁷

⁵40 CFR Part 30, see also 73 FR 19597 (April 10, 2008) “Today’s rule, however, requires monitoring of mitigation for a minimum of five years with longer monitoring periods required for aquatic resources with slow development rates.”

⁶ P. 6-37

⁷40 CFR Part 30